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CLOSED, CASREF, PLRA, PRO-SE

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-09593-PAC-MHD**

Kalwasinski v. Federal Bureau of Prisons et al
Assigned to: Judge Paul A. Crotty
Referred to: Magistrate Judge Michael H. Dolinger
Cause: 28:1331 Fed. Question: Other

Date Filed: 11/07/2008
Date Terminated: 06/24/2010
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: Federal Question

Plaintiff

Mitchell Kalwasinski

represented by **Mitchell Kalwasinski**
#82-A-4795
Great Meadow Correctional Facility
Box 51
Comstock, NY 12821
PRO SE

V.

Defendant

Federal Bureau of Prisons

represented by **Emily Ewell Daughtry**
U.S. Attorney's Office, SDNY (Chambers
Street)
86 Chambers Street
New York, NY 10007
(212)-637-2800 x1579
Fax: (212)-637-2717
Email: emily.daughtry@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant**Janice Galli McLeod**represented by **Emily Ewell Daughtry**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/07/2008	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Harold Baer on 11/5/08) (laq) (Entered: 11/26/2008)
11/07/2008	2	COMPLAINT against Federal Bureau of Prisons, Janice Galli McLeod. Reply required under Prison Litigation Reform Act Section 7(2)(g)(2). Document filed by Mitchell Kalwasinski.(laq) (Entered: 11/26/2008)
11/07/2008		SUMMONS ISSUED as to Federal Bureau of Prisons, Janice Galli McLeod. (laq) (Entered: 11/26/2008)
11/07/2008		Magistrate Judge Michael H. Dolinger is so designated. (laq) (Entered: 11/26/2008)
11/07/2008		Case Designated PLRA purs. to Prison Litigation Reform Act Section 7(2)(g)(2). (laq) (Entered: 11/26/2008)
12/11/2008	<u>3</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement). Dispositive Motion (i.e., motion requiring a Report and Recommendation). Referred to Magistrate Judge Michael H. Dolinger. (Signed by Judge Paul A. Crotty on 12/11/2008) Copies Mailed By Chambers.(jfe) Modified on 4/8/2009 (jfe). (Entered: 12/11/2008)
12/22/2008	5	PRO SE MEMORANDUM dated 12/12/08 re: CHANGE OF ADDRESS for Mitchell Kalwasinski. New Address: 82-A-4795, Great Meadows Correctional Facility, P.O. Box 51, Comstock, NY, 12821. (ae) (Entered: 01/12/2009)
01/09/2009	4	PRO SE MEMORANDUM dated 12/10/08 re: CHANGE OF ADDRESS for Mitchell Kalwasinski. New Address: 82-A-4795, Great Meadow Correctional Facility, Box 51, Comstock, NY, 12821. (mro) (Entered: 01/09/2009)

01/13/2009	6	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and PLRA Sec. 7(2)(g)(2) Complaint served. Janice Galli McLeod served on 1/6/2009, answer due 1/26/2009. Service was made by certified mail, return receipt requested #7005 3110 0001 2107 7746. Document filed by Mitchell Kalwasinski. (dj) (Entered: 01/15/2009)
01/30/2009	7	MOTION for an order directing defendant(s), within 30 days to provide Plaintiff, justification for allegations contained in defendants answer and previous administrative denial that requested documents are exempt from disclosure under the Freedom of Information Act 5 USCA section 552. Attached is Affidavit in support. Document filed by Mitchell Kalwasinski.(dj) (Entered: 02/05/2009)
02/06/2009	8	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Emily Daughtry dated 2/5/09 re: Request for a 60 day extension of time to respond to the complaint and a 30 day extension to respond to plaintiff's motion, dated 1/27/09. ENDORSEMENT: Defendant is to respond to the complaint and to plaintiff's motion for Vaughn index by no later than 3/20/09. Federal Bureau of Prisons answer due 3/20/2009; Janice Galli McLeod answer due 3/20/2009.(Response due by 3/20/2009) (Signed by Magistrate Judge Michael H. Dolinger on 2/5/09) (cd) (Entered: 02/06/2009)
03/10/2009	9	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Emily E. Daughtry dated 3/9/09 re: Counsel requests an additional week to prepare and file the Governments motion for summary judgment from March 20, 2009 until March 27, 2009. ENDORSEMENT: In the interest of a comprehensive submission by defendant. This application is granted. (Signed by Magistrate Judge Michael H. Dolinger on 3/10/09) (mme) (Entered: 03/11/2009)
03/13/2009	10	ANSWER to Complaint. Document filed by Federal Bureau of Prisons. (docmt received in night dep. on 3/13/09 at 11:38 p.m.)(dj) (Entered: 03/18/2009)
03/26/2009	11	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and PLRA Sec. 7(2)(g)(2) Complaint served. Federal Bureau of Prisons served on 3/9/2009, answer due 3/30/2009. Service was accepted by Ms. Charles, clerk. Document filed by Mitchell Kalwasinski. (mro) (Entered: 03/27/2009)
03/27/2009	12	MOTION for Summary Judgment for deendant. Document filed by Federal Bureau of Prisons, Janice Galli McLeod. (docmt received in night dep. on 3/27/09 at 9:55 p.m.)(dj) (Entered: 03/31/2009)
03/27/2009	13	MEMORANDUM OF LAW in Support re: 12 MOTION for Summary Judgment. Document filed by Federal Bureau of Prisons, Janice Galli McLeod. (dj) (Entered: 03/31/2009)
03/27/2009	14	DECLARATION of Vanessa Herbin-Smith. Document filed by Federal Bureau of Prisons. (dj) (Entered: 03/31/2009)

03/27/2009	15	NOTICE to Pro Se litigant Opposing Motion for Summary Judgment. Document filed by Federal Bureau of Prisons. (dj) (Entered: 03/31/2009)
04/06/2009	16	ORDER, Set Deadlines/Hearing as to 12 MOTION for Summary Judgment: (Responses due by 4/27/2009, Replies due by 5/11/2009.) (Signed by Magistrate Judge Michael H. Dolinger on 3/30/09) Copies forwarded by Chambers.(dj) (Entered: 04/06/2009)
04/13/2009	17	ENDORSED LETTER addressed to Magistrate Judge Michael Dolinger from Mitchell J. Kalwasinski dated 4/6/09 re: plaintiff writes asking for an extension of time to respond to defendants motion seeking summary judgment. ENDORSEMENT: plaintiff is granted an extension to 6/17/09 to respond to defendant's motion. His requests to add a defendant is denied. The only proper defendant in an FOIA case is the pertinent agency. (Signed by Magistrate Judge Michael H. Dolinger on 4/13/09) (pl) Modified on 5/7/2010 (pl). (Entered: 04/13/2009)
04/17/2009	18	MOTION for an order purs to Rules 15(a)(1)(2)(c)(1) of the FRCP granting leave to the plaintiff to amend his complaint in adding Janice Galli McLeod name, to the captioned action. Attached is Affirmation in support. Document filed by Mitchell Kalwasinski.(dj) Modified on 4/24/2009 (dj). (Entered: 04/24/2009)
05/05/2009	19	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Mitchell Kalwasinski dated 4/27/09 re: pro se plaintiff requests that the Court encourage defendants to trace the package of his clothes and when located return to plaintiff's family prior to 6/17/09. ENDORSEMENT: Though not required by the F.O.I.A. the Bureau of Prison has made an unsuccessful search for plaintiff's missing package of clothes. No further relief on that score is warranted here. (Signed by Magistrate Judge Michael H. Dolinger on 5/5/09) (dle) (Entered: 05/06/2009)
06/22/2009	20	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Emily E. Daughtry dated 6/18/2009 re: I am writing in response to Plaintiff's letter to the Court, dated June) 5, 2009, in the above-referenced Freedom of Information Act ("FOIA") action. In his letter, Plaintiff requested an extension of time to respond to the Government's motion for summary judgment until August 17, 2009. Respectfully request that the Government be permitted to submit its reply brief on September 11, 2009. ENDORSEMENT: Plaintiffs opposing papers are to be served and filed by August 17, 2009. Defendants reply is due by Sept. 11, 2009. (Replies due by 9/11/2009., Responses due by 8/17/2009) (Signed by Magistrate Judge Michael H. Dolinger on 6/19/2009) (jmi) (Entered: 06/22/2009)

07/15/2009	<u>21</u>	MEMO ENDORSEMENT on 7 MOTION for an order directing defendant(s), with in 30 days to provide Plaintiff, justification for allegations contained in defendants answer and previous administrative denial that requested documents are exempt from disclosure under the Freedom of IN MOTION for an order directing defendant(s), wit hin 30 days to provide Plaintiff, justification for allegations contained in defendants answer and previous administrative denial that requested documents are exempt from disclosure under the Freedom of IN filed by Mitchell Kalwasinski. ENDORSEMENT: Defendants have filed a summary judgment motion that includes a Vaughn index. Accordingly the motion is denied as moot. (Signed by Magistrate Judge Michael H. Dolinger on 7/15/09) (cd) (Entered: 07/16/2009)
08/14/2009	<u>22</u>	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Mitchell J. Kalwasinski dated 8/12/2009 re: I am writting to request on extension of time to August 31, 2009. To file Plaintiff's class motion for summary judgment in the above mentioned matter. ENDORSEMENT: Application granted. Plaintiffs papers are due by Aug. 31, 2009. Defendants responding, papers are to be served and filed by Sept. 21, 2009. (Motions due by 8/31/2009, Responses due by 9/21/2009) (Signed by Magistrate Judge Michael H. Dolinger on 8/14/2009) (jmi) Modified on 8/20/2009 (jmi). (Entered: 08/17/2009)
09/10/2009	<u>23</u>	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Emily E. Daughtry dated 9/9/2009 re: Counsel respectfully request a two-week extension from 9/21/09 until 10/5/2009 to submit the Government's opposition to plaintiff's cross-motion for summary judgment and reply brief in further support of the Government's motion for summary judgment. ENDORSEMENT: Application granted. Plaintiff's reply if any is due by Oct 19, 2009. So Ordered. (Signed by Magistrate Judge Michael H. Dolinger on 9/10/2009) (jfe) (Entered: 09/10/2009)
09/10/2009		Set/Reset Deadlines as to 12 MOTION for Summary Judgment.. Responses due by 10/5/2009 Replies due by 10/19/2009. (jfe) (Entered: 09/10/2009)
10/05/2009	24	MEMORANDUM OF LAW in Opposition to plaintiff's Cross-Motion for Summary Judgment and in further support of defendant's Motion Summary Judgment. Document filed by Federal Bureau of Prisons. (mbe) (Entered: 10/06/2009)
10/15/2009	<u>25</u>	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Mitchell Kalwasinski dated 10/13/09 re: This letter is to request a 30 day extension from 10/19/09 until 12/21/09 to submit the pro-se plaintiff's reply in opposition to the defendants memorandum of law dated 10/5/09 in this matter. ENDORSEMENT: If plaintiff wishes to file a reply, he is to do so by Nov., 12, 2009. (Signed by Magistrate Judge Michael H. Dolinger on 10/15/09) (tro) (Entered: 10/15/2009)
01/04/2010	<u>26</u>	ORDER: In light of April 13, 2009 memo endorsement issued by Magistrate Judge Dolinger (document number 17), the Clerk of Court is directed to terminate plaintiff's motion to amend (document number 18). (Signed by Judge Paul A. Crotty on 1/4/2010) Copies Mailed By Chambers.(jfe) (Entered: 01/04/2010)

03/04/2010	27	MEMORANDUM OF LAW in Opposition to defendants motion for summary judgment and in further support of plaintiffs motion for summary judgment. Document filed by Mitchell Kalwasinski. (mbe) (Entered: 03/09/2010)
03/15/2010	28	REPORT AND RECOMMENDATIONS re: that for the reasons stated, we recommend that defendants motion for summary judgment be granted and that plaintiffs cross-motion for summary judgment on his FOIA claim be denied. We also recommend that plaintiffs motion to amend his complaint be denied and that his claims against the individual defendant, Janice Galli McLeod, be dismissed. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from this date to file written objections to this Report and Recommendation. Additional relief as set forth in this Order. Objections to R&R due by 4/1/2010 (Signed by Magistrate Judge Michael H. Dolinger on 3/12/10) copies mailed by chambers.(pl) (Entered: 03/15/2010)
04/05/2010	29	LETTER from Mitchell J. Kalwasinski dated 3/29/10 re: Plaintiff will not be filing any objections to Judge Dolinger's Report and Recommendation of March 12, 2010. Document filed by Mitchell Kalwasinski.(mro) (Entered: 04/06/2010)
06/23/2010	30	ORDER: The Court has reviewed Magistrate Judge Dolinger's R & R and find no clear error. Accordingly, the Court adopts the R&R in its entirety and GRANTS the Bureau's motion for summary judgment. Pursuant to 28 U.S.C. 1915(a), I find that any appeal from this order would not be taken in good faith. the Clerk of the Court is directed to enter judgment and close this case. So Ordered (Signed by Judge Paul A. Crotty on 6/23/2010) Copies Mailed By Chambers.(js) Modified on 6/29/2010 (js). (Entered: 06/23/2010)
06/23/2010		Transmission to Judgments and Orders Clerk. Transmitted re: 30 Order Adopting Report and Recommendations,, to the Judgments and Orders Clerk. (js) (Entered: 06/23/2010)
06/24/2010	31	CLERK'S JUDGMENT in favor of Federal Bureau of Prisons, Janice Galli McLeod against Mitchell Kalwasinski that deft's motion for summary judgment is granted; the complaint is dismissed and the case closed. (Signed by Clerk of Court Ruby Krajick on 6/24/10) (jf) (Entered: 06/24/2010)
06/24/2010		Transmission to Docket Assistant Clerk. Transmitted re: 31 Clerk's Judgment,, to the Docket Assistant Clerk for case processing. (jf) (Entered: 06/24/2010)
06/24/2010		Mailed notice of Right to Appeal re: 31 Clerk's Judgment, to Pro Se Litigant(s): Mitchell Kalwasinski and to Attorney(s) of Record: Emily Ewell Daughtry. (eef) (Entered: 06/28/2010)

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